

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM: Monroe D. Kiar, Town Attorney/ (954) 584-9770

SUBJECT: "HOBBY FARM" ORDINANCE

AFFECTED DISTRICT: All Districts

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ESTABLISHING THE RIGHT OF RESIDENTS OF THE TOWN OF DAVIE TO MAINTAIN "HOBBY FARMS" WITHIN THOSE RESIDENTIAL AREAS OF THE TOWN OF DAVIE WHICH ARE PRESENTLY ZONED TO PERMIT AGRICULTURAL USES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: Pursuant to the direction of the Town Council, the Town Attorney's Office worked closely with Ms. Julie Aitken of the Davie Agricultural Advisory Board in drafting the "Hobby Farm" Ordinance to provide further protection for Davie residents conducting agricultural activities within residential neighborhoods of the Town **where agricultural activities are presently permitted** by the Davie Town Code. Although this Ordinance does not expand the areas in which agricultural activities are presently permitted, the Ordinance provides that in the event that agricultural activities are subsequently prohibited in such areas, agricultural activities being conducted at the time of the adoption of this Ordinance and prior to any repeal of this Ordinance shall be deemed to be a legal nonconforming use. The legal nonconforming status of such agricultural activities shall continue notwithstanding any change in ownership of the property on which the agricultural activities are being conducted or any change in the type of permitted agricultural activity being conducted on the property.

PREVIOUS ACTION: None

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION: The Ordinance is complete and suitable for transmittal to the Town Council for its deliberation.

Attachments: Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING THE RIGHT OF RESIDENTS OF THE TOWN OF DAVIE TO MAINTAIN "HOBBY FARMS" WITHIN THOSE RESIDENTIAL AREAS OF THE TOWN OF DAVIE WHICH ARE PRESENTLY ZONED TO PERMIT AGRICULTURAL USES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Davie recently amended the Town's Charter, through a referendum of the electorate, to adopt legislation to ensure the preservation of the Town's rural character and equestrian lifestyle; and

WHEREAS, safeguarding the rights of Davie residents to conduct agricultural activities within "semi-rural residential neighborhoods" within the Town will enhance the preservation of the Town's rural character; and

WHEREAS, "limited agricultural activities" within "semi-rural residential neighborhoods" may not meet the requirements to be classified as "farms" under the Florida Statutes or under Section 12-34 (B)(16) of the Davie Town Code and thus, afford residents conducting such activities protections under Florida State Law; and

WHEREAS, the Town of Davie's land use regulations presently permit agricultural activities within certain specified residential areas within the Town; and

WHEREAS, the Town Council of the Town of Davie deems it desirable to provide legislative protections to residents of the Town conducting "limited agricultural activities" that do not qualify as "farms" under the Florida Statutes.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. DEFINITIONS

a) The term "Hobby Farm" shall mean a parcel of land located in an existing or designated semi-rural area, with or without a residential dwelling and/or accessory buildings, where limited agricultural activities for primarily recreational purposes are not prohibited at the time of the adoption of this act and which does not meet the criteria to be classified as a "farm" under the Florida Statutes or Section 12-34 (B)(16) of the Davie Town Code.

b) The term "Semi-Rural Area" shall mean existing residential neighborhoods within the Town, where limited agricultural activities are not prohibited by the Davie Town Code at the time of the adoption of this act.

c) The term "Limited Agricultural Activities" shall mean agricultural uses as defined under Chapter 12 of the Davie Town Code, not qualifying as a "farm" under the Florida Statutes.

SECTION 2. No maintenance of a "Hobby Farm" as defined within this act shall be deemed to be a nuisance if said activities were not a nuisance at the time of the adoption of this act and the agricultural activities conducted on the property conform to Central Broward Water Management Board Best Management practices for that type of agricultural activity.

SECTION 3. No limited agricultural activities conducted in the maintenance of a "Hobby Farm" shall be deemed to be a public or private nuisance due to a change in the type of limited agricultural activity being conducted, a change in conditions in or around the locality of the semi-rural area or a change in the ownership of the property on which the "Hobby Farm" is situated.

SECTION 4. In the event of future land use amendments or zoning changes to the contrary, any land use amendments or zoning changes to the contrary, any limited agricultural activity in a semi-rural area previously existing or commenced under this act shall become a legal non-conforming use, notwithstanding any change in ownership or change in the type of limited agricultural activity being conducted on the property.

SECTION 5. If any section, subsection, sentence, clause phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2003

PASSED ON SECOND READING THIS _____ DAY OF _____, 2003

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003